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WILLIAM J. SAPONE COLEMAN SUDOL SAPONE P.C. 714 COLORADO AVENUE BRIDGE PORT, CT 06605			EXAMINER GALLEGO, ANDRES F	
			ART UNIT 3637	PAPER NUMBER
			NOTIFICATION DATE 03/04/2010	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary

Application No.

10/551,111

Applicant(s)

FRANCISQUINI, MELQUISEDEC

Examiner

ANDRES GALLEG0

Art Unit

3637

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 November 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 20-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 20-27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 September 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB-06)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Status of Replies to Office Action Mailed 2/26/2009

The claim listing filed by applicant on August 26, 2009 has not been entered by the examiner as the claims fail to comply with 37 CFR 1.126. The amendment to the specification and abstract filed on 8/26/2009 have been accepted and entered by the examiner. The supplemental response filed November 24, 2009 has been entered by the examiner. The Notice of Non-Compliant Amendment mailed November 11/24/2009 has been withdrawn by the Office.

The status of the claims is as follows: Original claims 1-19 are canceled. Claims 20-27 are new and are acted upon in this action.

Information Disclosure Statement

The listing of references throughout the background of the specification is not a proper information disclosure statement (e.g., PI 8.406.283, DE 1953950, PI 9.509.594, PI 9.713.114, etc.). 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609.04(a) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

Specification

Applicant is reminded of the proper content of an abstract of the disclosure.

A patent abstract is a concise statement of the technical disclosure of the patent and should include that which is new in the art to which the invention pertains. If the

patent is of a basic nature, the entire technical disclosure may be new in the art, and the abstract should be directed to the entire disclosure. If the patent is in the nature of an improvement in an old apparatus, process, product, or composition, the abstract should include the technical disclosure of the improvement. In certain patents, particularly those for compounds and compositions, wherein the process for making and/or the use thereof are not obvious, the abstract should set forth a process for making and/or use thereof. If the new technical disclosure involves modifications or alternatives, the abstract should mention by way of example the preferred modification or alternative.

The abstract should not refer to purported merits or speculative applications of the invention and should not compare the invention with the prior art.

Where applicable, the abstract should include the following:

- (1) if a machine or apparatus, its organization and operation;
- (2) if an article, its method of making;
- (3) if a chemical compound, its identity and use;
- (4) if a mixture, its ingredients;
- (5) if a process, the steps.

Extensive mechanical and design details of apparatus should not be given.

Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

The abstract of the disclosure is objected to because of extensive structural details to the invention. The abstract is also objected to for having more than 150 words.

Correction is required. See MPEP § 608.01(b).

Claim Objections

Claims 20, 22, and 23 are objected to because of the following informalities:

Regarding claim 20, line 10 should be written as, "... having a side which forms [a] an inner section..." Appropriate correction is required.

Regarding claim 22, the first line should be written as, "The [the] metallic profile of claim 20..." Appropriate correction is required.

Regarding claim 22, the second line should be written as, "... is positioned [in] parallel in relation to one of the apexes..."

Regarding claim 23, the second line should be written as, "... is positioned [in] parallel in relation to one of the apexes..."

Regarding claim 26, the third line should be written as, "... positioned [in] parallel in relation to the apex..."

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 25-27 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

Regarding claim 25, changing the configuration of the diagonal wall and wing between the two apexes into a "W" wall would render claim 20 as non-enabling, since the claimed limitations for the structure of the original metallic profile would not longer be there.

Regarding claim 26, changing the configuration of one of the two apexes into a wing, and changing the structure of the diagonal wall and mounting wing for "a second mounting wing" would render claim 20 as non-enabling, since the claimed limitations for the structure of the original metallic profile would not longer be there.

Regarding claim 27, changing the configuration of one of the two apexes into a perpendicularly bent wing, and changing the structure of the diagonal wall and mounting wing for "a second mounting wing" would render claim 20 as non-enabling, since the claimed limitations for the structure of the original metallic profile would not longer be there. Applicant may not remove limitations from a previous claim in a subsequent dependent claim. Therefore these claims appear to be improper dependent claims or are currently claiming subject matter not disclosed in the original specification to enable one to make or use the claimed device.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 20-27 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding line 4 in claim 20, it is unclear as to what the Applicant is referring to by "tilting doors (102)". It seems as though the Applicant means to describe a hinged door, as is disclosed in page 11, line 30 of the specification, but in describing the doors as "tilting doors", one might interpret that the door will literally tilt in a vertical direction along a horizontal axis, and not just rotate about a vertical axis, a feature not supported by the specification or drawings. Appropriate correction and clarification is required.

Regarding line 9 in claim 20, the limitation "a cross section made from a metallic sheet which presents a transversal cross section with a defined triangular rectangular geometry" does not positively define the metes and bounds of the claimed invention. It is unclear as to what is a "triangular rectangular geometry", and it is not adequately described by the specification or drawings. Appropriate correction and clarification is required.

Claim 20 recites the limitation "the walls (111)" in line 15. There is insufficient antecedent basis for this limitation in the claim. Due to the element number (111) being different from the limitation "walls (109)" in line 12, it seems that the Applicant is claiming a new set of walls which should not have any previous antecedence. Examiner suggests that there be more description to distinguish each wall such that the limitations would not depend on the element numbers. Appropriate correction and clarification is required.

Claim 20 recites the limitation "an upright (107)" in line 17. Due to the element number (107) being the same from the previous limitation "an opposite upright (107)" in line 11, it seems that the Applicant has already established antecedence and should not

be claiming "upright (107)" as a new limitation. Appropriate correction and clarification is required.

Regarding lines 18-19 in claim 20, it is unclear as to how the assembly wing flanked by the two walls, remain outside the cabinet, since such a description is not present in the specification or drawings. It seems that the assembly wing is pointed to the outside of the cabinet, without actually being outside of the cabinet. Examiner will interpret this limitation accordingly. Appropriate correction and clarification is required.

Regarding line 20 in claim 20, the limitation "having rows of openings and holes with variable shapes and sizes" does not positively define the metes and bounds of the claimed invention. It is unclear as to what are the "variable shapes and sizes", and are not adequately described by the specification or drawings. Appropriate correction and clarification is required.

Regarding line 22 in claim 20, the limitation "having rows of variable openings and holes" does not positively define the metes and bounds of the claimed invention. It is unclear as to what are "rows of variable openings and holes", and are not adequately described by the specification or drawings. Appropriate correction and clarification is required.

Claim 20 recites the limitation "the mounting wing (112)" in line 22. It is unclear if the "mounting wing (112)" is the same as "the assembly wing (112)" from line 18, since both limitations share the same element number. For purposes of examination, the Examiner will interpret the mounting wing and the assembly wing to the same limitation. Appropriate correction and clarification is required.

Claim 20 is indefinite for claiming the metallic profile in terms of a cabinet. Since the claims are directed to a metallic profile, per-se, the cabinet is considered an intended use which is given very little patentable weight. To claim the cabinet, applicant should rewrite the claim as "a combination of a metallic profile and cabinet." If applicant wants to maintain the claim as a subcombination of the metallic profile, then claim 20 should be written using "adapted for" language. Appropriate correction is required.

Claim 21 recites the limitation "the uprights (108)" in line 1. There is insufficient antecedent basis for this limitation in the claim. Due to the element number (108) being different from the limitation "upright (107)" in claim 20, it seems that the Applicant is claiming new uprights which should not have any previous antecedence. Appropriate correction and clarification is required.

Claim 21 recites the limitation "an upright (107)" in line 2. Even though the element number (107) is different from the previous limitation "the upright (108)" in line 1, it is unclear as to what the Applicant is referring to by the multiple uprights, and therefore considered indefinite. Examiner suggests that there be more description to distinguish each upright such that the limitations would not depend on the element numbers. Appropriate correction and clarification is required.

Claim 22 recites the limitation "the apexes (110)" in line 2. There is insufficient antecedent basis for this limitation in the claim. It appears that the Applicant claims only one apex (110) in claim 20, and not a plurality. Appropriate correction and clarification is required.

Claim 23 recites the limitation "the mounting wing (112a)" in line 1. There is insufficient antecedent basis for this limitation in the claim. Due to the element number (112a) being different from the limitation "the mounting wing (112)" in claim 20, it seems that the Applicant is claiming a new mounting wing which should not have any previous antecedence. Examiner suggests that there be more description to distinguish each mounting wing such that the limitations would not depend on the element numbers. Appropriate correction and clarification is required.

Regarding lines 2-3 in claim 23, the limitation "further extends in conjunction with a fold at right angles" does not positively define the metes and bounds of the claimed invention. It is unclear as to how the mounting wing can "further extend in conjunction with a fold at right angles", and where these folds and extensions take place on the metallic profile; a limitation not adequately described by the specification or drawings. Appropriate correction and clarification is required.

Regarding lines 1-2 in claim 26, the limitation "one of the apexes is substituted by a wing" does not positively define the metes and bounds of the claimed invention. It is unclear as to how the apex to a metallic profile can be substituted by a wing without a series of bending processes that would render the original description of the metallic profile of claim 20 to be indefinite and non-enabling.

Claim 27 recites the limitation "the second wing (112c)" in line 2. There is insufficient antecedent basis for this limitation in the claim. It is unclear if the "second wing" is the same as "a second mounting wing" in claim 26.. Appropriate correction and clarification is required.

Claim Rejections - 35 USC § 103

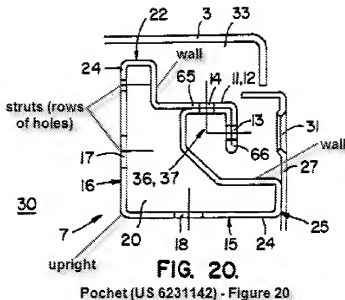
The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 20-24, as best understood, is rejected under 35 U.S.C. 103(a) as being unpatentable over Pochet (US 6231142) in view of Bales (US 2424217), and Debus et al. (US 4643319).

Regarding claim 20, Pochet discloses an improved metallic profile (7: Figure 20) that can be used in the assembly cabinets, enclosures, boxes, or panel boards of an indoor or outdoor type, said cabinet (1: Figure 1) being in the form of a box having side closures (27), including a tilting door (3), an assembly of metallic profiles (Figure 2 shows an assembly of metallic profiles, with Figure 20 being one of the cross-sectional embodiments of the profile) forming a structure which, on an outside, support the closures and accessories (Figures 1 and 20), while on the inside, has struts (17, 18, see annotated Figure 20) capable of being for the assembly of electric and electronic components and devices, the metallic profile comprising a cross section (Figure 20) made from a metallic sheet (Column 5 Lines 54-56) which represents a transversal cross section with a defined triangular rectangular geometry, having a side which forms an inner section or a central core of a tubular form (Column 5 Lines 54-56), an upright (see annotated Figure 20) facing an inside (30) of a cabinet (Column 6 Line 31), an

opposite upright (65) facing an outside of the cabinet, two adjacent uprights (24) having walls (15,16) which form a right angle, the walls forming each upright being first perpendicularly folded in a direction of the upright (the opposing upright:65), and then folded inwards to form an apex having a "U" shape (22, 25), the walls (15,16, and see annotated Figure 20) stretched and folded at different angles such that the walls have ends located one against the other, superimposing on one another so as to form the opposing upright, the cross section being closed and extended outwardly for configuration as an assembly wing (11,12) flanked by the two walls which remain outside the cabinet, the walls (15,16) remaining inside the cabinet and having rows of openings and holes (Examiner interprets these to be the same as the struts mentioned previously in the claim: 17,18, annotated Figure 20) with variable sizes which constitute fastening points that can be used for different components mountable in the interior of the cabinet, the mounting wing (Examiner interprets to be the assembly wing (11,12) having rows of variable openings and holes (13,14: the holes are variable in that they are oriented in different directions) that can be used for fastening external components to the cabinet.



Pochet does not disclose said cabinet being in the form of a metallic box, the side closures, including the door, being made of a substantially thin metallic sheet, and the walls of the metallic profile having holes with various shapes.

Bales teaches a cabinet (Figure 1) being in the form of a metallic box, the side closures (26,28,10), including the door (170), being made of a substantially thin metallic material as shown in Column 3 Lines 45-49, 70-73; Column 4 Lines 5-6, 27-32; Column 7 Lines 50-52; Column 9 Lines 6-7; Column 10 Lines 68-69, Column 11 Lines 49-50. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the cabinet of Pochet to be of a metallic material as taught by Bales, since such a modification would provide the cabinet with protective panel material that would better protect the contents stored inside.

Debus teaches the walls (11, 12) of a metallic profile (Figures 1-4) having holes (20, 21, 25, 26) having various shapes as shown in Figures 1-4. It would have been

obvious to one having ordinary skill in the art at the time the invention was made to modify the metallic profile of Pochet, as modified, by having holes of variable shaped as taught by Debus, since such a modification would allow for objects having differently designed hook/clamp devices to be able to engage the best fitting hole on the metallic profile.

In regards to the limitation that the metallic profile has struts for the assembly of electric and electronic components and devices, the examiner takes the position that it's an intended use. In addition, it has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. *Ex parte Macham*, 2 USPQ2d 1647 (1987).

Regarding claim 21, Pochet, as modified by Bales and Debus, discloses the metallic profile wherein the uprights (24) and the upright (the opposite upright: 65) are located at an inclined alignment which forms a diagonal to the upright (see annotated Figure 20: located on corner between walls (15 and 16)).

Regarding claim 22, Pochet, as modified by Bales and Debus, discloses the metallic profile wherein the mounting wing (11,12) is positioned parallel in relation to one of the apexes (22) (Figure 20).

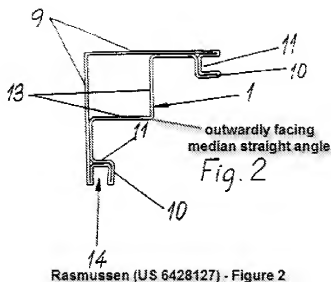
Regarding claim 23, Pochet, as modified by Bales and Debus, discloses the metallic profile wherein the mounting wing (11, 12) is positioned parallel in relation to one of the apexes (25), and further extends in conjunction with a fold at right angles (Figure 20).

Regarding claim 24, Pochet, as modified by Bales and Debus, discloses the metallic profile wherein a diagonal wall interlinking two apexes (22,25) which are straight and in a mid part thereof, two steel sheets face outwards, forming the double mounting wing (11,12).

Claim 25, as best understood, is rejected under 35 U.S.C. 103(a) as being unpatentable over Pochet in view of Bales and Debus et al., and in further view of Rasmussen (US 6428127).

Regarding claim 25, Pochet, as modified by Bales and Debus, does not disclose the two apexes being interlinked by a "W" wall in a stepped manner, forming an outwardly facing median straight angle.

Rasmussen teaches two apexes (14) interlinked by a "W" wall in a stepped manner, forming an outwardly facing median straight angle as shown in Figure 5 and annotated Figure 2. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the metallic profile of Pochet, as modified, by interlinking the two apexes in a stepped manner as taught by Rasmussen, since such a modification would provide the metallic profile with an alternate design for forming the frame structure to the cabinet.



Claims 26 and 27, as best understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Pochet in view of Bales and Debus et al.

Regarding claim 26, Pochet, modified by Bales and Debus, does not disclose one of the apexes being substituted by a wing, coplanar to the wall, and a second mounting wing being provided, positioned in parallel in relation to the apex.

However, Pochet discloses a constructive variation (Figure 16) to the metallic profile of Figure 20 teaching an apex being substituted by a wing (11), coplanar to a wall (16), and a second mounting wing (12) being provided, positioned in parallel in relation to the apex (22) as shown in Figure 16. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the metallic profile of Pochet, as modified, by substituting one of the apexes with a wing as taught by Pochet, since such a modification would provide the metallic profile with an alternate design for forming the frame structure to the cabinet.

Regarding claim 27, Pochet does not disclose the wing being folded perpendicularly inward and located parallel to the second wing.

Pochet discloses the constructive variation (Figure 16) to the metallic profile of Figure 20 teaching the wing (11) being folded perpendicularly inwards and located parallel to the second wing (12) as shown in Figure 16. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the metallic profile of Pochet, as modified, by substituting one of the apexes with a wing as taught by Pochet, since such a modification would provide the metallic profile with an alternate design for forming the frame structure to the cabinet.

Response to Arguments

Applicant's arguments with respect to claims 1-17 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ANDRES GALLEG0 whose telephone number is (571)270-7630. The examiner can normally be reached on Monday - Friday, 7:30 AM - 5:00 PM EST (Every other Friday off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Darnell Jayne can be reached on 571-272-7723. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Darnell M Jayne/
Supervisory Patent Examiner, Art Unit 3637

ANDRES GALLEGOS
Examiner, Art Unit 3637
2/22/10